

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No. 57 of 2020

Arising Out of PS. Case No.- Year-0 Thana- District- Buxar

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Rakesh Kumar Mishra, aged about 32 years, Gender – Male, Son of
Kripashankar Mishra Resident of Village - Karnamepur, P.S.- Shahpur,
District- Bhojpur at Ara

... .. Petitioner

Versus

1. The State of Bihar
2. Vidya Laxmi D/O - Late Shashi Shekhar Pandey Resident of Village -
Ojhawaliya, P.S.- Brahmpur, District- Buxar

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Mrigendra Kumar
For the Respondent/s : Mr.Nagendra Prasad

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 03-02-2020 Heard learned counsel for the petitioner and

learned A.P.P. for the State.

Petitioner in the present case is aggrieved by the

judgment dated 21st day of October, 2019 passed by learned

Principal Judge, Family Court, Buxar in Maintenance Case

No. 22(M)/2016 by which the learned Principal Judge has

upon examining the evidences adduced by the parties held

the petitioner liable to pay a sum of Rs. 10,000/- per month

as maintenance to his wife – opposite party no. 2.

Learned counsel for the petitioner has assailed the



impugned order on the quantum of the maintenance only. According to learned counsel the petitioner's income has been taken as Rs. 50,000/- per month by the learned Principal Judge, Family Court without there being any evidence on the record. It is his submission that the petitioner was unemployed, hence to assume an income of Rs. 50,000/- per month against the petitioner is not just and proper. Learned counsel submits that in such circumstance the award of Rs. 10,000/- per months as maintenance is highly exaggerated, unjust and improper.

On the other hand, in this court has perused the record particularly the pleadings and the evidences which have been dealt by the learned Principal Judge, Family Court, Buxar, it is found that the wife – opposite party no. 2 had filed an application under Section 125 Cr.P.C. and it was her stand that this petitioner is an Engineer who was working in a Firm at Gurgaon in the State of Haryana and was receiving a sum of Rs. 50,000/- per months. The petitioner had an opportunity to contest the said statement of his wife but he did not deny those facts relating to his employment



and remuneration in his written statement and in course of evidence also when he deposed as a witness, in his examination in chief he did not make any statement at all with regard to his employment. He never deposed that he was unemployed and/or had no income to maintain himself and his wife. In the complaint petition when there was a specific pleading that this petitioner was working as Engineer in Unitech Cyber Park Tower Croth Floor in Gurgaon (Haryana) and was holding a responsible position receiving a salary of Rs. 50,000/- per month it was all the more necessary for the petitioner to controvert the statement but he chose to maintain a complete silence.

Initially learned counsel for the petitioner once again wanted to impress this court that the petitioner is an unemployed and the learned court below has failed to appreciate this aspect of the matter keeping in view his denial to the suggestions made by the learned counsel for the applicant in course of his cross examination but very soon when the attention of learned counsel for the petitioner was drawn towards his own statement made in



paragraph 12 of the present application where he has accepted that in the show cause the petitioner had stated that he was working in a private firm, learned counsel for the petitioner was unable to controvert that and in fact what has ultimately transpired is that admittedly the petitioner was employed and in his show cause he had made statement to that effect. If this is the admitted position, there being no denial of the quantum of remuneration and no evidence to controvert the same was brought by the petitioner in the court below, this court finds no illegality muchless any perversity with the impugned order.

This Criminal Revision Application, has, thus, no merit. It is dismissed, accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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